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VIA EMAIL

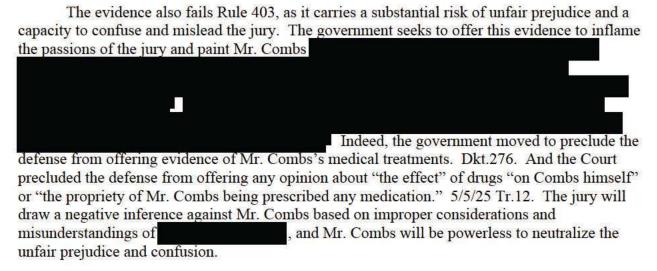
Hon. Arun Subramanian United States District Judge Southern District of New York 500 Pearl Street New York, NY 10007

United States v. Combs, 24-cr-542 (AS) Re: Dear Judge Subramanian: We write on behalf of Mr. Combs to preclude the government from , which the government seeks to offer through GX A-166, A-166-C, A-166-D, and accompanying references in its summary chart, GX 1407. By way of background, See GX A-166, A-166-C, A-166-D. The government further seeks to include in GX 1407 (a summary chart) portions of these communications. A table with the relevant communications and rows from GX 1407 is provided below. The Court should exclude the communications in GX A-166, A-166-C, and A-166-D , and exclude the accompanying rows in GX 1407. The evidence is not probative of any issue in this case. And even if minimally probative, the evidence fails Rule 403. The government's proffered theory of relevance is illusory. The government suggested to the defense that the evidence was relevant "[t]o show how intimately familiar and involved [Ms. Khorram] was with every aspect of [Mr. Combs's] life, increasing the likelihood she was familiar with what he was doing during hotel nights." But that is not a reasonable inference. Jane was not even in the same city as Mr. Combs and no "hotel night" was taking place. Of course Ms. Khorram-Mr. Combs's chief of staff-

The government does not need evidence of this exchange to prove that Ms. Khorram was familiar with the ins and outs of Mr. Combs's life, and the evidence is not probative of the ultimate conclusion the government seeks to argue. To the contrary, the

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government is merely seeking "to suggest decision on an improper basis," here, "an emotional one." Fed. R. Evid. 403, advisory committee notes.



There is no question that these improper risks "substantially outweigh" the limited probative value for which the government seeks to offer the evidence. Fed. R. Evid. 403. The probative value of the evidence must be determined by "comparing evidentiary alternatives." Old Chief v. United States, 519 U.S. 172, 184 (1997). The government is offering the evidence merely to demonstrate the strength of the relationship between Ms. Khorram and Mr. Combs to suggest she has knowledge of hotel nights. But it already has troves of evidence probative of her knowledge, including evidence demonstrating that she helped Mr. Combs select particular hotel rooms, as well as messages offered to prove her knowledge of "cowboys" and "escort[s]" in hotels during hotel nights. There is thus no legitimate role for at the play at this trial.

Accordingly, the Court should exclude the following rows from the government's draft GX 1407 summary chart, as well as the underlying communications in GX A-166, A-166-C, and A-166-D:



³ See, e.g., GX 1407, rows 416-17 (citing GX A-159-M and GX A-159, p.76, wherein Ms. Khorram sends Mr. Combs a floorplan of a hotel room and states "[t]his was the best option with most space for best price").

⁴ See, e.g., GX 1411, rows 94-95 (citing GX C-366, wherein Ms. Khorram received a message about a cowboy and responds with four laughing emojis and states "Btw how long is he gonna stay awake ?!?"); GX 1411, row 112 (citing GX C-367 wherein Ms. Khorram writes to Mr. Combs "Paul Cowboy – wrote 'available").

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Respectfully submitted,

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